



PART I ADMINISTRATION OF THE GOVERNMENT
(Chapters 1 through 182)

TITLE VII CITIES, TOWNS AND DISTRICTS

CHAPTER 40V HOUSING DEVELOPMENT INCENTIVE PROGRAM

Section 1 Definitions

[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Certified housing development project”, a housing development project that has been approved by the department for participation in the housing development incentive program.

“Department”, the department of housing and community development as established by chapter 23B.

“Gateway municipality”, gateway municipality as defined in section 3A of chapter 23A.

“Housing development incentive program” or “HDIP”, a program designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within housing development zones in gateway municipalities.

“Housing development project”, a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

“Housing development zone” or “HD zone”, a zone designated by a gateway municipality which shall be characterized by a need for multi-unit market rate residential properties.

“Market rate residential unit”, a residential unit priced for households above 110 per cent of the area’s household median income.

“Qualified substantial rehabilitation expenditure”, the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by the department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work meets the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

“Sponsors”, sponsors, as defined in section 25 of chapter 23B.

“Substantial rehabilitation” and “substantially rehabilitated”, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.



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Section 2 Designation of gateway municipality as an HD Zone; contents of application

[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]

Section 2. The department may from time to time designate 1 or more areas of a gateway municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation, upon receipt of a municipal application requesting such designation and representing in its application that the municipality, based on its own independent investigation, has determined that the area proposed for designation has a need for multi-unit residential properties. The application shall include a plan which shall include a detailed description of the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan.



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Section 3 Approval of application for tax exemption for housing development project under Sec. 59 of chapter 59

[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]

Section 3. Under section 5M of chapter 59, the department may approve a municipality’s application for a tax exemption for a housing development project located within an approved housing development zone.



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Section 4 Criteria for eligibility to be a certified housing project; approval of certified housing development project designation

[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]

Section 4. (a) A project may be eligible to be a certified housing development project under this chapter; provided, however, that the proposed project:

- (i) contains 2 or more residential units; provided, however, the project may be a mixed-use development that includes commercial uses in addition to residential units;
- (ii) contains not more than 50 market rate residential units;
- (iii) is located in a designated or proposed HD zone;
- (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to be sold or leased;
- (v) has received from the municipality a property tax exemption under section 5M of chapter 59; and
- (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve 1 or more housing development projects, located in HD zones designated as certified projects under section 2 and take any and all actions necessary or appropriate to such a designation, upon compliance with the following:

- (i) receipt of a project proposal for such a designation requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as the department prescribes, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the sponsors;
- (ii) receipt of an executed agreement by the municipality which contains a tax exemption under section 5M of chapter 59 and this section so long as the municipality has determined and incorporated in a formal written determination, based on the information submitted with the project proposal and such additional investigation as the municipality shall make, that the project as described in the proposal

and all documentation submitted with the proposal:

(A) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality's plans relative to the project property tax exemption;

(B) together with all other projects previously certified and located in the same project HDIP zone, shall not overburden the municipality's supporting resources; and

(C) together with the municipal resources committed to the project, shall, if certified, have a reasonable chance of increasing residential growth, diversity of housing supply, supporting economic development and promoting neighborhood stabilization in 1 of the municipality's housing development zones of the municipality as advanced in the proposal; and

(iii) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than 5 years and not more than 20 years.

(c) The department shall evaluate and either grant or deny any project proposal not later than 90 days from the date of its receipt of a complete project proposal and failure to do so by the department shall result in approval of such project for a term of 20 years. Approval of a project due to the department's failure to act within 90 days shall not constitute approval by the department of any tax incentives provided under chapter 62 or 63.

(d) The department may impose a fee for the processing of applications for the certification of any project under this section.

(e) The department shall review such certified project at least once every 2 years. A certified project shall retain its certification for the period specified by the department in its certification decision unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the department and only upon: (i) the petition of the municipality that approved the project proposal, if the petition satisfies the authorization requirements for a municipal application or the petition of the director of the department; and (ii) the independent investigation and determination of the department that representations made by the sponsors in its project proposal are materially at variance with the conduct of the sponsors subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance. Upon such a revocation, the commonwealth and the municipality, may bring a cause of action against the sponsors for the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the department determines that a material variance commenced. The commissioner of revenue may, as of the

effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification under this section. The commissioner shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Annually, on or before the first Wednesday in December, the department shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue, to the joint committee on revenue and the joint committee on housing and community development.



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Section 5 Award of tax credits to sponsor of a certified project

[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]

Section 5. The department may award to a sponsor of a certified project tax credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The amount and duration of the credit awarded shall be based on the following factors:

- (i) the need for residential development and diversity of housing supply in the gateway municipality;
 - (ii) the extent to which the project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization, and promote economic development in the zone; and
 - (iii) the percentage of market rate units contained in the project.
- (b) The department may, limit any incentive or credit available to a project under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.